
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

TROY CABIBI,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

MEMORANDUM DECISION AND ORDER
DENYING MOTION TO APPOINT
COUNSEL

Case No. 2:13-cv-00006-DN

District Judge David Nuffer

Troy Cabibi filed two motions to appoint counsel in this civil case—one in January 2013¹ and another in May 2013.² For the reasons outlined below, both motions are DENIED.

As a civil litigant, Mr. Cabibi has no constitutional right to counsel.³ However, under [28 U.S.C. § 1915\(e\)\(1\)](#), a court has discretion to appoint counsel for indigent parties. When deciding whether to appoint counsel, the court considers several factors, “including ‘the merits of the litigant’s claims, the nature of the factual issues raised in the claims, the litigant’s ability to present his claims, and the complexity of the legal issues raised by the claims.’”⁴ “The burden is upon the applicant to convince the court that there is sufficient merit to his claim to warrant the appointment of counsel.”⁵ As a pro se litigant, Mr. Cabibi’s arguments are liberally construed.⁶

After considering the factors listed above and construing Mr. Cabibi’s arguments liberally, the court finds that (1) it is doubtful that Mr. Cabibi’s claims have merit; (2) there are

¹ Motion for Appointment of Counsel, [docket no. 2](#), filed January 3, 2013.

² Motion for Appointment of Council [sic], [docket no. 8](#), filed May 7, 2013.

³ See *Carper v. DeLand*, 54 F.3d 613, 616-17 (10th Cir. 1995).

⁴ *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (quoting *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991)).

⁵ *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985).

⁶ *United States v. Viera*, 674 F.3d 1214, 1216 n. 1 (10th Cir. 2012).

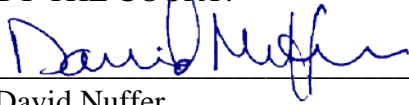
no unusually complex legal or factual issues; and (3) Mr. Cabibi is not currently incapacitated or otherwise unable to present his claims. Therefore, Mr. Cabibi's motions for appointed counsel are denied.

ORDER

IT IS HEREBY ORDERED that Mr. Cabibi's Motions for Appointment of Counsel⁷ are DENIED.

Dated April 20, 2015.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer
United States District Judge

⁷ [Docket no. 2](#), filed January 3, 2013; [docket no. 8](#), filed May 7, 2013.